S.B. CIVIL WRIT PETITION NO.856/2005

Fateh Lal Devpura Vs. UIT, Bhilwara and others.

Date : 20.7.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. M Shishodia, for the petitioner.
Mr. BK Vyas, for the respondents.

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Heard learned counsel for the parties.

The petitioner produced a patta issued by the Erstwhile Jagirdar of the Village and that patta was held to be inadmissible in evidence by the order of trial court dated 6.2.2002.

According to learned counsel for the petitioner, the trial court proceeded under wrong assumption of facts only and, therefore, the order of trial court is just contrary to law.

According to learned counsel for the petitioner, the patta was issued in favour of the petitioner on 3.5.1954 by the Jagirdar of the Village as he was exercising the sovereign power at the relevant time. Not only this, but by the order of the State Government dated 22.2.1951, even an Ex-Jagirdar were given power to grant patta for abadi and agriculture land.

According to learned counsel for the petitioner, the

patta was issued to the petitioner by Jagirdar by exercising power of the State. The Jagir in question was resumed by the State by issuing notification in Gazette on 23.8.1954. The Jagir stands resumed from 25.8.1954 and were declared government property by the order of Collector dated 25.8.1954 with effect from 25.8.1954. It is also submitted that the Rajasthan Tenancy Act also came into force on 15.10.1955. These facts were not taken into consideration and, therefore, the trial court observed that the grant issued by the Erstwhile Jagirdar is not the government grant under Section 10 of the Government Grants Act.

I have considered the submissions of learned counsel for the petitioner and perused the impugned order and also notification of the State Government dated 22.2.1951 and the order of the District Collector dated 25.8.1954, copies of which have been produced to support by learned counsel for the petitioner.

In view of the facts mentioned above, since the patta was issued when the Jagirdar had power to grant patta and since that document of grant has been exempted from registration, therefore, the court below proceeded on wrong facts and therefore, only has held that the patta in question is not admissible in evidence.

In view of the above discussion, this writ petition is deserves to be allowed, hence allowed and the order of the

trial court dated 6.2.2002 is set aside. The patta in question be taken in evidence. The trial court shall now proceed with the case and the stay order dated 10.2.2005 granted by this Court is vacated.

(PRAKASH TATIA), J.

S.Phophaliya